

1887-017 Chancery Causes: Bo Ding Hawthorn + wife vs. Solomon C. Hamilton
Lee Co.

CA-Debt
T-Property

To the Hon. H. K. Morison Judge
of the Circuit Court of Lee,
County Virginia:

The Vice of Complaint, of
~~Bolling Hawthorne~~ and Mary E.
Hawthorne, ^{of the State of Bolling Hawthorne} his wife, humbly Com-
plaining would respectfully
represent, that on the 9th, day of
Sept, 1885, your female complain-
ant sold to Solomon L. Hamilton
a tract of 68 $\frac{1}{2}$ acres of land situ-
ated in this County, near said
Hamilton's other lands; and
which was conveyed to her by
J. C. Davis & Co, and is properly
described in your complain-
ant's deed to said Hamilton now
of record in the Clerk's office of
this County bearing date the 8th
day of Sept 1885. For this land
said Hamilton on the 9th, day of
Sept 1885, executed his two notes
for the receipt of said purchase
money, one note under seal &
due & payable on demand for
the sum of one hundred dollars
the other under seal made due
and payable on the first day

On the first of January 1887 I bind myself
here &c. to pay Mary. E. Hathorn the sum of
Two hundred Dollars for value received it
being executed for the purchase price of land
witness my hand and seal This September
9th 1887
S. C. Hamilton Seal

No 2

J C Homboldt
To Poteploo

Durham 1887

of January 1887, for the sum of
two hundred dollars, each made
payable to your female com-
plainant whose separate prop-
erty they are, her husband being
joined only for conformity he
having no interest therein -
~~also one note due Jan 1st 1888 for 2/2.00~~
these notes master of them nor
no part thereof has ever been
paid to your female complain-
ant, and they are herewith filed
as part of this bill marked
1 and two - there are some small
credits on no 1 which is its only
payments ever made.

A copy of the deed of your
complainants will be found
herewith filed marked "A" by which
it will be seen your complain-
ants retained a lien on the said
land for the payment of said
purchase money of which the notes
here sued on are a part

To enforce this ~~judgment~~ lien
and have so much of said
land sold as will pay the
same and the costs of this pro-
ceeding -

To effect which they pray
that said Solomon L. Hamlet
be made a party defendant
to this bill and answer the same
and on a hearing a decree be
rendered enforcing the same
and selling so much of said
land as will pay the same
And for all other further &
general relief May Supp
issue &c.

A. L. Orlin
for Compt.

C 5: 2 2 Jan 1887
S 1 5
+ 15.00.

Billing Hawthorne
Mary S. Hawthorne
Wife of Bowling Hawthorne
v. D. Biel Chy.

Solomon C. Hamilton
State Bonds enclosed.

Depts
C 1.15-

1887. Nav. Bill filed Spa
Exd and D. Kisi
" Decr. D. Kisi Conf'd
& Cause set for hearing

To the Hon. St. S. K. Morison Judge of the Circuit
Court of Lee County Virginia:

The demurer and answer of Solomon C. Hammett
to a bill in Chancery exhibited in this Honorable Court
against him by Bowling Hawthorn and Mary E. Hawthorn his
Wife:

Respondent says the plaintiffs bill is not sufficient in
law for them to have and maintain the same against him
and as one ground of his said demurer he says the said
Bowling Hawthorne has long since been dead, and was
dead at the time of bringing said suit. But if other
and further answer be required at his hand, answering he says

That he supposes it is true that he executed the two notes
said on about the 9th day of Sept 1885 to the Poff Mary E. Hawthorn
and that they became due and payable as stated in Poffs. bill.

But it is not true that the two credits entered on one of said
notes is all that has been paid thereon, for on the 12th day
of Sept 1885 he paid the said Mary E. Hawthorn the further
sum of \$100.00 as shown by her receipt therefor herewith filed
as part of this answer marked (A.B)

It is also true that said notes were given as a part of
the purchase ^{price} of a tract of land supposed to contain some 60 or 70
acres conveyed by said ^{Bowling Hawthorn and} Mary E. Hawthorn to Respondent, and
for aught Respondent now knows, the Vendee him or may have
been retained therein for the unpaid purchase money:

It is perhaps also true that said tract of land was conveyed
to said Mary E. Hawthorn by J. C. Davis & Co and the same was
conveyed to that firm by Bowling Hawthorn in his lifetime

Respondent says that ~~at~~ at the time said ^{Bowling Hawthorn} Mary E. Hawthorn

* But in addition to this respondent states that said Bowling Hawthorn got over the said Victoria Lane or Speak as she is sometimes called for her entire interest in said land and he could not legally have paid her therefor until she should arrive to the age of 21 years and should then make a deed of conveyance for the same. But since said Hawthorn purchased said land from said infant, all he is obliged to do is to pay her the purchase price of said land, and he is not bound to pay her the purchase price of said land until she should arrive to the age of 21 years and should then make a deed of conveyance for the same.

Sold and conveyed said tract of land to him. They did not have good title thereto, nor is their title thereto yet good and complete. But on the contrary, about 14 or 15 acres thereof is owned by Victoria Lane or Victoria ^{Speak} an infant under 21 years of age who cannot now make a good title to her interest therein, until the title thereto shall be perfected, respondent is advised a court of equity will not compel him to pay for land for which he has no title, and which may be ultimately lost to him. But if he should be required to pay anything, he is advised that a court of equity will allow him a sum as a credit on said notes, equal to the value of said 14 or 15 acres, as of the time when said notes commenced to bear interest, or became payable.

Respondent states that said Bowling Hawthorn during his life applied for and obtained the benefit of the act of Congress known as the general Bankrupt Law in the Federal District Court of the United States held at Abingden, and that one Mr. Page became the assignee of said Bankrupt in that cause, at the sale of said Bankrupt's property made by said Page as his assignee said Bowling Hawthorn became the purchaser of a certain tract of land so sold, and for the purchase price said Hawthorn gave as his sureties one R. J. Respe and D. H. Bird for the payment of the purchase price, and at a subsequent time judgment was obtained by said Page as such assignee in said District Court against said Hawthorn, Respe and Bird for the purchase price of the land so sold and purchased. Before the matter of said judgment was finally settled and adjusted between the parties thereto, the assignee

Page died, and one S. J. Cosby subsequently became adm^r of the estate of said Wm. Page died.

Respondent now states that said S. J. Cosby adm^r of said Page filed his petition in the Bankrupt Cause of said Bowling Hawthorn in said District Court for the Western District of Va. claiming that there is still due the estate of said Page a considerable sum on said judgment and he also claims that said judgment operates as a lien on the tract of ^{land} conveyed by ^{Bowling Hawthorn} Mary E. Hawthorn to Respondent, and upon the filing of said petition the Judge of said Federal Court awarded an injunction restraining and inhibiting the said Bowling Hawthorn and Mary E. Hawthorn his wife and this respondent and all other persons whatsoever, as well as to wit, the said Bowling Hawthorn and wife from collecting and this respondent from paying to the said Hawthorns or either of them, any and all sums due or to become due from this respondent, on account of a certain land transaction between said Hawthorns and this respondent. And the agents attorneys and factors of each and of all said parties are likewise so restrained as aforesaid until the further order of the court, and this restraining order is dated Feb. 22 1887. And a copy of said Petition and of said restraining order are herewith filed as parts of this answer the first marked (A-B) and the second (A-D) And a rule was thereupon made upon the said Bowling Hawthorn and Hawthorn his wife, and this respondent requiring them to show cause at a future time why the prayer of said petition should not be granted, and the copy of that rule served upon this respondent is herewith filed as part hereof marked (A-E)

Respondent says that before this suit was instituted he answered or attempted to answer said petition and therein signified his readiness to pay all the money due from him for said land whenever said supposed lien should be removed or were shown to exist and the title to the said land should be perfected and he here again repeats and reiterates the same.

Respondent now states that the two oaths upon which this suit is brought, constitutes the subject matter of the said petition, and the attempt of the said Mary E. Hawthorn to enforce payment thereof in this suit is a direct contempt offered to the authority of the Federal Court in the premises, and while your Honor will not undertake to punish for contempts offered to the Federal Court still respondent is advised that this Court will dismiss this suit founded as it is upon a matter of which said Federal Court has assumed jurisdiction, long before this suit was instituted.

Respondent having now answered as fully as deemed necessary he now denies each and every allegation of the plaintiffs bill not before denied, or confessed, and avoided, and he now prays that Bills will be dismissed.

H. J. Morgan for Respondent.

I do swear that the statements in the foregoing answer so far as made on my own knowledge are true, and so far as made on information derived from others I believe them true so help me god.

S. C. Hamilton

Subscribed & sworn to before me by S. C. Hamilton

the 7th day of Decr. 1887.

H. J. Morgan Comt.

Solomon C. Hamilton

Ads. $\frac{1}{3}$ Answer

Boring Hawthorn wife

Filed by leave
of the Court 7th
Decr. 1887.

J. A. Hyatt
cc

September 12th 1885. Received of -
J B Hamelton one hundred dollars
it being for land sold him

Mary E Hawthorn

(A.B.)

In the District Court of the United States,
For the Western District of Virginia,
In the matter of }
Rolling Hawthorne } In Bankruptcy,
Bankrupt.

To the Hon. John Paul, Judge of the District
Court for the Western District of Virginia,

The petition of L. J. Cosby, Administrator
of Wm Page, deceased, would respectfully represent
unto your Honor, as follows, to-wit:

That petitioner intestate the said Wm Page,
now deceased, was in his life time the duly
appointed Assignee of the Bankrupt in
this cause, that the said Rolling Hawthorne,
was the purchaser of certain real estate, sold
by the said Assignee; that the said purchaser
made default in payment of certain of
the purchase money bonds executed for
the price of said real estate so sold &
purchased, as aforesaid; that in the further
discharge of the duties of his said office,
the said Assignee obtained judgments against
the said Hawthorne, R. J. Rupe & D. H. Bird,
upon said unpaid purchase money bonds,
the said Rupe & Bird being sureties for the
said Hawthorne, that the said Assignee was
proceeding to enforce the collection of the said
judgments, when at the instance of the said
Hawthorne and said sureties, or some of them

at least, a decree was passed in this cause, on the 30th day of May 1885, ordering E. J. Jones, as a Special Commissioner to take & state an account showing among other things the amount due from said Hawthorn, on said judgments and the sum due petitioner intestate for his fees and as compensation for services in this cause, a copy of said order is herewith filed marked "E. J. J. - 1" & is made a part hereof & is prayed to be so considered; that owing to the ill-health of the said Assignee, E. J. Jones was unable to take & state said account, and consequently on the 12th of November 1885, another order was entered in this cause, enlarging the time within which E. J. Jones was to make his said report; a copy of said last mentioned order being also filed herewith marked "E. J. J. - 2" as a part hereof & is prayed to be so considered; that in consequence of the continued ill health of the said Assignee & which terminated in his death early in 1886, said account has not to this day been taken, nor could it be,

Petitioner is informed, believes & so charges that there was due to the said Page Assignee at the time of entering said decree and at the date of the death of the

said assignee a large sum for fees & compensation for services in this cause, but just what amount cannot be definitely ascertained without said account being taken; and that from the proceeds of said judgments when the sum due thereon shall be realized is the only source of payment of the amounts due said Jagers estate. Petitioner would further show that the said Hawthorne became the owner of a tract or parcel of land in Lee, County, Virginia, in said District upon which said judgments are liens; that the said Hawthorne pretended to sell or had the title to said land made to the said Hawthornes wife, and by her it was bargained or sold to one S. C. Hamilton, at what price petitioner does not know and cannot now readily ascertain; that said Hawthornes, as petitioner is informed and believes or charges, are trying or in some way proceeding to collect the purchase money due from said Hamilton; that the said Hawthorne, Ruple & Ford are in very straightened circumstances financially, as petitioner is informed & believes; that if the said Hawthornes be allowed to collect or receive from the said Hamilton the money due from him on his said purchase, the interests of the creditors as well as of petitioners intestates estate

will be seriously harmed and irreparably injured & damaged; and that petitioner is advised & so charges that the fund due from said Hamilton is liable to the satisfaction of said judgments pro tanto.

Petitioner therefore prays that that the said Polling Hawthorn & — his wife be restrained from collecting and the said S. C. Hamilton from paying to the said Hawthornes or either of them any & all sums due or to become due from the said the said Hamilton in or account of the said transaction between the said Hawthornes & Hamilton; that such proper steps, as by the law in such case is made & provided, be taken for the appointment of another assignee in the room & stead of the late assignee. And Page, dec^r; that Court fees, upon the appointment of such new assignee, be directed to proceed to take the account heretofore ordered as aforesaid; and for such other further & general relief as is proper & meet under the law and the circumstances of the case require.

And as in duty bound will ever pray &c,

L. J. Corby, Admr of
H^{on} Page, dec^r;
By Council,

F. T. Barr,
Sol^r for Petr

I swear & before the undersigned by L. J. Cosby, as true & the best of his knowledge & belief. this 17th day of February 1887.

Given under my hand the day & date aforesaid at Abingdon, Virginia

Ed. Jones.
J. F. Cannon,

Ordered.

N^o 10

In re. Polling Hawthorne, Bankrupt.
Petition of L. J. Cosby. Adm^r &c,

Restraining order awarded as prayed for, Clerk will issue process requiring the defendants Polling Hawthorne & Hawthorne his wife and S. C. Hamilton to answer this Petition, Process returnable to 1st Monday in April 1887.

John Paul,
Feb'y 21 1887, Dist. Judge,

1887- Feb'y 22- Petition filed, Restr'g order issued & Rule to answer petition April Rules '87,

Fee for copy \$1.⁰⁵
paid by R. J. Morgan,

N^o 10

In re,

Jolling Hawthorne,
Bankrupt.

Copy.

Petition of

L. J. Cosby.

Adversus &c,

(A6)

In the District Court of the United States,

No. 10.

FOR THE WESTERN DISTRICT OF VIRGINIA.

In the matter of

Rolling Hawthorne
BANKRUPT.

In Bankruptcy,

It is Ordered, That *Rolling Hawthorne* - *Hawthorne his wife*

S. C. Hammett and all other persons whatsoever, be prohibited and restrained

~~from as follows, the said Rolling Hawthorne - Hammett his wife from collecting and the said S. C. Hammett from selling, or exposing for sale, any of the Property of - paying to the said Hawthornes or either of them any and all said Bankrupt, in said District, until the further Order of this Court :~~

~~Sum due or to become due from the said Hammett in account of a certain land transaction between the said Hawthornes & Hammett & the Agents, Attorneys & Factors of each and of all said parties, nor likewise so restrained as aforesaid until the further order of this court,~~

Witness, the Hon. *John Paul* ALEXANDER RIVES, Judge of the

said Court, and Seal thereof, at *Abingdon*

on the *22* day of *February*

A. D., 1887.

Accey
J. D. Dyer,

Ed. J. Jones
Dep. Clerk U. S. Dist. Ct. Western Dist. of Va.

No.....

vs.

RESTRAINING ORDER.

[CERTIFIED COPY.]

(AD)

Filed..... 187

District Clerk.

United States of America,

WESTERN DISTRICT OF VIRGINIA.

The President of the United States of America,

To the Marshall of the Western District of Virginia, s s.--GREETING:

We command You to Summon *Bolling Hawthorne & Hawthorne*
his wife & S. C. Hamilton
of *the County of Lee* if *they* shall be found in your
District, to appear before our Honorable Judge of our District Court of the United States for the
Western District of Virginia, at the *clerk's office of said Court* ~~term thereof, to be holden~~ at Abingdon, in the District
aforesaid, on ~~Tuesday~~ *1st* after the fourth Monday of *April next* ~~(being the first day of the next term)~~

to show cause if any *they* can why *the prayer of the petition of*
L. G. Corby, adm'r of Wm Page, dec'd, (late assignee of the Bankrupt)
~~term 188~~ *as* ~~shall not be find for failure to attend at the~~
in behalf of the United States against
filed in the cause In re Bolling Hawthorne, Bankrupt,
shall not be granted
after being thereto legally summoned

And this you shall in no wise omit, under penalty of the law in that case made and provided; and
have you then and there this writ.

WITNESS, the Hon. JOHN PAUL, Judge of our District Court

of the United States of America at Abingdon, this

22^d day of *February* in the year of our
Lord, one thousand eight hundred and eighty *sevent*
and of our Independence the *111th* year.

C. D. Jones dep. Clerk.

A copy
Teste

No.....

United States District Court,
WESTERN DISTRICT OF VIRGINIA.

RULE.

(A.E.)

Filed A. D., 188 .

..... District Clerk.

Col. 100
100

In the District Court of the United States,
For the Western District of Virginia,
At Abingdon,

In the matter of
Bolling Hawthorne,
Bankrupt, } In Bankruptcy,

In this cause it is ordered
that the assignee proceed to collect the fund shown
by the answer of E. C. Hamilton to be due from
him, viz: \$361⁰⁰ + interest thereon, and hold same
subject to the further order of the Court, And the
question as to any further liability on said
Hamilton, other than that shown by his answer
is reserved, And E. J. Jones, Special Comm^r will
proceed to execute the order of reference heretofore
entered,

(Signed) John Paul,
Abingdon Va August 7th 1888, Judge,

I hereby certify that the above is a true
copy of an Order entered in the matter of Bolling
Hawthorne, Bankrupt, in the District Court of the
United States at Abingdon on the 7-day of August
1888 as appears from the Records of said Court,

Witness my hand & the Seal of said District
Court at Abingdon, this 24th day of October 1888,

Feb 30th

E. J. Jones, Dep. Clk,
U. S. Dist. Court, Abingdon,

Copy of Decree of the
United States Court

(A3)



In the District Court of the United States,

No.

FOR THE WESTERN DISTRICT OF VIRGINIA.

In the matter of

Golling Hawthorne

BANKRUPT.

In Bankruptcy,

It is Ordered, That *Golling Hawthorne* — *Hawthorne*

his wife, S. L. Hamilton and all other persons whatsoever, be prohibited and restrained

~~from as follows, the said Golling Hawthorne and~~
~~Hawthorne his wife from collecting and the said~~
~~selling, or exposing for sale, any of the Property of~~

~~S. L. Hamilton from paying to the said Hawthornes or either~~
~~said Bankrupt, in said District, until the further Order of this Court:~~

~~of them any and all sums due or to become due from~~
~~the said Hamilton in account of a certain land~~
~~transaction between the said Hawthornes & Hamilton & the~~
~~agents Attorneys & factors of each and of all said parties or~~
~~likewise so restrained as aforesaid, until the further Order of~~
~~this Court,~~

Witness, the Hon. *John Paul* ALEXANDER RIVES, Judge of the

said Court, and Seal thereof, at *Abingdon*

on the *22* day of *February*

A. D., 188*7*.

A copy
Seal

Edw. Co. De Jure
Clerk U. S. Dist. Ct. Western Dist. of Va.

I, J. H. Fowler, Clerk of the District
Court of the United States for the
Western District of Va., do certify
that the within is a true copy of the
Restraining order issued in Re Bolling
Hawthorne, Docket No. 1, Feb. 22, 1887
and that the paper thereto attached
is a true copy of the marshals
return thereon, given in my
hand and the seal of said Court
this 22 October 1889.

J. H. Fowler
Clerk.

No.

U.S.

RESTRAINING ORDER.

[CERTIFIED COPY.]

Filed

187

District Clerk.

Executed March 7. 1887. by
delivering a copy to D. C. Hamilton,
the Bankrupt Hamilton being dead,
& his widow being a resident of
Barrett Kansas, no copy was
served on either of them

S L Graham USRW

Per Charles Willoughby

Deputy

copy file
H. Hamilton
case
USRW
on account

not
On demand the 1 day of March I
promise to pay Mary E Hawthorn
one hundred dollars it being for
a tract of land bought of her this
day Sept. 9 1885 - D. C. Hammit Seal

C. & C. H. 17

Quincy, Jan. 20
Collected 24.286

Gr. carter 26

Quincy, Jan. 20
April 3, 1886

No 1

17

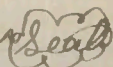
17

17

17

17

On the first day of January 1888 I bind
myself heirs &c' to pay Mary E. Hathorn the
sum of Two hundred and Twelve Dollars
for value received. This note is executed
for the purchase price of land. witness
my hand and seal this September 9th 1888.

J. C. Hammit 

Sb Hambleton
to Pot \$100
Duggan 15 88

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

Solomon C. Ham-
ilton.

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *November 1887* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *him* by *Bolling Hawthorn*

and Mary E. Hawthorn.

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *5th* day of *November* 1887, in the 112 year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

(D)

Bolling Hawthornet

30
3 Spa in Chey
vs 3

Solomon C. Hamblen

To Nour. Rules 1887.

Executed by
delivering office
copies of this Spa
to Solomon C. Hamblen
Nov. 7th 1887.

J. H. Ewing, S. G.